

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE**

BOYD SMITH, et al,	)	
	)	
Plaintiffs,	)	
v.	)	
	)	
FIRST CENTURY BANK, et al,	)	
	)	Civil Action No.: <u>3:04-CV-591</u>
Defendants.	)	
_____	)	CONSOLIDATED
	)	
ERNEST NICELY, et al,	)	Civil Action No.: <u>3:05-CV-175</u>
	)	
Plaintiffs,	)	(Judges Jarvis/Guyton)
	)	
v.	)	
	)	
FIRST CENTURY BANK, et al,	)	
	)	
Defendants.	)	

**DEFENDANT DELORIS GRAVES' MOTION TO MODIFY SCHEDULING ORDER**

COMES the Defendant Deloris Graves ("Graves"), by and through counsel, and moves the Court to Modify the Scheduling Order by extending the deadline to file dispositive motions until after the hearing on November 3, 2005. For cause, Graves would show:

1. On October 6, 2005, Graves filed a Cross-Motion Relative to Plaintiffs' Motion to Modify Scheduling Order and for Scheduling Conference [Court Doc. 86] asking that, should the Court be inclined to grant Plaintiffs' Motion to Modify Scheduling Order and for Scheduling Conference [Court Doc. 81], the Court also extend the deadlines set forth in Defendant Deloris Graves' Response to Plaintiffs' Motion to Modify Scheduling Order and for Scheduling Conference [Court Doc. 87], including the deadline for filing dispositive motions.

2. The above-mentioned motions, as well as Defendant First Century Bank's Motion to Modify Scheduling Order [Court Doc. 89], have been referred to the Honorable Magistrate Judge H. Bruce Guyton for hearing on November 3, 2005 [Court Docs. 88 and 90]. In addition, Plaintiffs have filed a Motion to Amend Complaint [Court Doc. 63], in which Plaintiffs seek to assert several new allegations against all of the Defendants, and which has not yet been ruled upon by the Court.

3. Under the current Scheduling Order, the deadline for filing dispositive motions is October 26, 2005, yet the above-mentioned motions will not be heard until November 3, 2005.

Therefore, in the event that the deadline for filing dispositive motions is not extended by the Court at the hearing on November 3, 2005, Graves respectfully requests an extension of the deadline to file dispositive motions until two (2) weeks after the Court's rulings on the pending motions that will be heard on November 3, 2005.

Respectfully submitted this 24th day of October, 2005.

s/ Kevin B. Fox

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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was filed electronically on October 24, 2005. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

s/ Kevin B. Fox